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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

2:09-CV-32 JCM (LRL)

VOLVO CONSTRUCTION
EQUIPMENT RENTS, INC.,

Plaintiff,

v.

NRL RENTALS, LLC, et al.,

Defendants.

ORDER

Presently before the court is defendant Jefferson Bank's motion re-urging the motion to dismiss (doc. #328). (Doc. #374). Also before the court is plaintiff's motion to amend the complaint (doc. #374), contained within plaintiff's response to defendant's motion to dismiss.

I. Motion to Dismiss

On January 5, 2011, this court granted plaintiff's motion for the district judge to reconsider the order on the motion to dismiss. (Doc. #391). At that time, the court vacated the December 2, 2010, order (doc. #372) insofar as it granted defendant Jefferson Bank's motion to dismiss, and provided an opportunity for the plaintiff to respond to the substance of the motion.

The plaintiff thereafter filed a response, requesting that it be given leave to amend its pleading. (Doc. #374). The plaintiff has still not responded to the substance of the motion to dismiss. Accordingly, the court grants defendant's motion re-urging the motion and dismisses the case without prejudice as to defendant Jefferson Bank.

1 **II. Motion to Amend Complaint**

2 Under Federal Rule of Civil Procedure 15, a plaintiff may, without leave of court, amend its
3 complaint once within 21 days of service so long as the defendant has not filed an answer. When
4 requested, leave to amend "shall be freely given when justice so requires." FED. R. CIV. P. 15(a). The
5 local rules of federal practice in the District of Nevada qualify this rule, and require that a plaintiff
6 submit a proposed, amended complaint along with a motion to amend. LR 15-1(a).

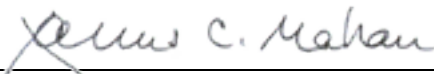
7 Here, plaintiff filed his first complaint on January 6, 2009. (Doc. #1). Plaintiff filed an
8 amended complaint on September 15, 2009. (Doc. #127). Accordingly, plaintiff has properly
9 requested leave to file a second amended complaint. However, as the plaintiff has failed to comply
10 with the local rule by attaching a proposed, amended complaint, the motion must be denied at this
11 time.

12 Accordingly,

13 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Jefferson Bank's
14 motion re-urging the motion to dismiss (doc. #328) is GRANTED. The case is dismissed as to
15 defendant Jefferson Bank without prejudice.

16 IT IS FURTHER ORDERED that plaintiff's motion to amend the complaint (doc. #374) is
17 hereby DENIED without prejudice.

18 DATED this 24th day of January, 2011.

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22 UNITED STATES DISTRICT JUDGE